

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

IN RE:

EASTERN LIVESTOCK CO., LLC

CASE NO. 10-93904
CHAPTER 11

DEBTOR

**RESERVATION OF RIGHTS AND OBJECTION TO THIRD INTERIM
APPLICATION OF JAMES A. KNAUER FOR COMPENSATION AND
REIMBURSEMENT OF EXPENSES AS CHAPTER 11 TRUSTEE**

Come Bluegrass Stockyards, LLC, Bluegrass Stockyards of Campbellsville, LLC, Bluegrass Stockyards East, LLC, Bluegrass-Maysville Stockyards, LLC, Bluegrass Stockyards of Richmond, LLC, Bluegrass South Livestock Market, LLC,¹ Alton Darnell, East Tennessee Livestock Center, Inc., Moseley Cattle Auction, LLC, Piedmont Livestock Company, Inc., and Southeast Livestock Exchange, LLC (collectively, the “Creditors”), by counsel, and hereby reserve for the final fee application all objections to the allowance and payment of fees and expenses of James A. Knauer, Chapter 11 Trustee for the Estate of Eastern Livestock Co., LLC (the “Trustee”). In support of this Reservation of Rights and Objection, the Creditors respectfully state as follows:

BACKGROUND

1. On December 27, 2010, after consideration of the Notice of Appointment and Application for Order Approving Appointment of Trustee [ECF No. 98] and the accompanying Trustee’s Verified Statement and Notice of Acceptance [ECF No. 98-1] and Affidavit of

¹ The Bluegrass creditors have entered in to a written settlement agreement with the Estate, acting by and through the Trustee, which includes, among other things, a full release of the Trustee and his professionals. Because the settlement has not yet been presented or approved, the Bluegrass creditors join in this reservation of rights at this time, pending such approval.

Disinterest [ECF No. 98-2], the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [ECF No. 102] in the above-captioned bankruptcy case.

2. On June 3, 2011, the Trustee filed his First Interim Application of James A. Knauer for Compensation and Reimbursement of Expenses as Chapter 11 Trustee [ECF No. 525] (the “First Interim Application”). This Application was approved on an interim basis by an Order of this Court entered on July 15, 2011 [ECF No. 605].

3. On November 10, 2011, The Trustee filed his Second Interim Application of James A. Knauer for Compensation and Reimbursement of Expenses as Chapter 11 Trustee [ECF No. 816] (the “Second Interim Application”). This Application was approved on interim basis by an Order of this Court entered on December 21, 2011 [ECF No. 925].

4. On November 21, 2012, the Trustee filed his Third Interim Application of James A. Knauer for Compensation and Reimbursement of Expenses as Chapter 11 Trustee [ECF No. 1556] (the “Third Interim Application”), which is at issue herein.

OBJECTION AND RESERVATION OF RIGHTS

5. For reasons previously stated, the Creditors continue in their objections to the allowance and further payment of fees and expenses for the Trustee on both an interim and final basis.

6. To the extent that the Court enters an order approving the Third Interim Application, the order will not be a final approval of the fees or expenses. *See Matter of Taxman Clothing Co.*, 49, F.3d 310, 312 (7th Cir. 1995) (“The law is clear . . . that all interim awards of attorney’s fees in bankruptcy cases are tentative.”) (citations omitted); *In re Eckert*, 414 B.R. 404, 409 (Bankr. N.D. Ill. 2009) (“Interim fee awards under 11 U.S.C. § 331 are discretionary and are subject to reexamination and adjustment during the course of the case

. . . . The Court may review the case at its conclusion and take into account the results obtained in making a final allowance.”) (citations omitted); *In re Gibson*, 2010 WL 774573, *10 (Bankr. C.D. Ill. 2010) (interim orders allowing fee applications are subject to further review and modification by court) (citations omitted).

7. Against this background, a lengthy objection to the Third Interim Application is not required at this interim stage. The Creditors reserve any and all rights to object to the final fee application filed by the Trustee in this bankruptcy case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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I further certify that on December 12, 2012, a copy of the foregoing pleading was served by first-class U.S. mail, postage prepaid, or by electronic mail as indicated, to the following:

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